



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/807,120 02/19/97 LEYDEN

R 831.00029

EXAMINER

WM02/0208

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WONG, A

ART UNIT

PAPER NUMBER

2635

DATE MAILED:

02/08/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Advisory Action

Application No.  
08/807,120

Applicant  
Leyden

Examiner  
Albert Wong

Group Art Unit  
2635



## THE PERIOD FOR RESPONSE: [check only a) or b)]

- a) ☒ expires 3 months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on Dec 19, 2000 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

- ☐ The proposed amendment(s):
- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
  - ☐ will not be entered because:
    - ☐ they raise new issues that would require further consideration and/or search. (See note below).
    - ☐ they raise the issue of new matter. (See note below).
    - ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
    - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

- ☐ Applicant's response has overcome the following rejection(s): \_\_\_\_\_

- ☐ Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

- ☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attachment.

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 1-14

- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.

- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

- ☒ Other

PTO-892

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1. The Office action is in response to the declaration and request for reconsideration filed December 19, 2000. Claims 1-14 are pending.

**Prior rejections withdrawn**

2. NONE.

**Prior rejections maintained**

3. The prior rejections have been maintained.

**New rejections**

4. NONE.

**Remarks**

5. The following informalities have been noticed in the case. They are not deemed to affect the issue of patentability. They are merely made a part of the record. First, applicant submitted patent 5,172,098 (Leyden) for consideration, but this reference was not listed on the IDS filed 2/19/1997. It was, however, reviewed and cited in the initial prosecution of patent 5,552,771. Leyden '124 is a CIP of Leyden '098 and the disclosures are virtually identical. The Examiner intended to apply Leyden '098 in the subsequent Office action and also cited a second patent to Leyden (5,341,124) that essentially covers the same subject matter. Applicants' responses have incorrectly referred to Leyden '124. Thus, the correction of this minor informality is not considered to be a new grounds for rejection. Leyden '098 is now formally cited on PTO-892.

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Second, the declaration of Gary Reese, filed 12/19/2000 has not been considered because it is not signed or dated. Arguments made based on the Reese declaration have not been considered.

Third, in the request for reissue, applicants' submit new claim 11. There was no request to amend original claim 11 with the new claim. And the new claim was not preceded with the "Amended" tag. From the remarks, it is clear that the intention was to substitute new claim 11 for the corresponding claim in Patent 5,552,771. The claim has been entered as such.

The declaration by Peter Passuntino has been considered, but does not abrogate the final rejection. At issue is whether it would have been obvious to combine the teachings of an alarm system with a multi-conductor cable with a sensor attached to a protected article with the teachings of a retraction means for the cable. The Examiner cites Leyden ('098) in view of Rankin, and Burke in support of his obviousness conclusion.

Applicants' argue that the Examiner has not explicitly stated the where the prior art teaches the motivation to combine--thus, the motivation must be implicit. Applicants' have provided the declaration of Mr. Passuntino as secondary evidence arguing away from the conclusion of obviousness.

It appears applicants' has selectively chosen portions of the Examiner's rejection to support his assertion without fully reading the rejection (January 17, 1998). On pages 3-4 of the rejection, the Examiner discusses Rankin. "Rankin discloses a[n alarm] system wherein a retraction means is engaged with a cable that is connected to a protected article." Col. 1 of

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Rankin teaches the motivation for combining a retraction means with a cabled alarm system. "A spring based reel provides a retracting force through the full extension of the cable to take up any slack which might otherwise entangle with itself." Therefore, the declaration and remarks are not persuasive and the final rejection is maintained.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert Wong whose telephone number is 703-305-8884. The examiner can normally be reached on Monday-Thursday from 8:30-6:00.

If attempts to reach the examiner by phone are unsuccessful, the examiners supervisor Mike Horabik can be reached on 703-305-4704.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 703-305-4700.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

703-308-9051, (for formal communications intended for entry)

**Or:**

703-305-3988 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

**ALBERT K. WONG**  
**PATENT EXAMINER**

*AKW*  
ALBERT K. WONG  
February 5, 2001

**MICHAEL HORABIK**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**

*Michael Horabik*